

[REDACTED]

[REDACTED]

[REDACTED]

MAR 6 1995

Employer Identification Number: [REDACTED]  
Key District: Baltimore, MD

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code. We have determined that you do not qualify for exemption under that section of the Code. Our reasons for this conclusion and the facts upon which it is based are explained below.

The information submitted indicates that you were incorporated on [REDACTED], under the laws of the [REDACTED]. Your Articles of Incorporation state that you are organized to assist members to become effective managers of their mutual fund investments by conducting programs of investment research, educational and information dissemination. You state that such programs emphasize the quantitative evaluation of alternative sources of mutual fund information and advice.

In your application, you state that your key members perform computerized historical analysis of a variety of market timing and fund selection models/methods in order to determine which of these systems is the top performer. You state that this information is published in a bi-monthly newsletter by your chairman with contributions from the key officers involved in the research. In your newsletter, you state that you do not make any investment recommendations nor assume any responsibility for the accuracy of the information presented; you also do not claim nor imply that historical data necessarily has any relevance to future performance of the overall market, individual funds, or investment systems.

In addition to the published material, you state that you hold ten meetings a year conducted by your chairman with members to review the research, six regular meetings and four special meetings. Prior to each regular meeting, a newsletter is mailed to each member. The newsletter (usually [REDACTED] to [REDACTED] pages long) contains articles which report upon mutual fund investment research. At each regular meeting, slides from the newsletter

are presented to explain the articles and to stimulate discussion and interaction among members. Prior to each special meeting, a user investment manual is mailed to each member who has subscribed to this optional program. The manual (■ to ■ pages in length) describes how to set up and implement an investment program based upon one of the prior year's top-performing systems. At each special meeting, slides are presented from (1) the previously mailed investment manual and (2) your Special Report. This report (approximately ■ pages long) provides an integrated presentation of your latest process for selecting the top-performing investment systems. It includes material presented during the current and previous years and is distributed at no charge to your members who have renewed their subscriptions within thirty days.

Your bylaws provide that only natural persons may be admitted to your membership, which shall be automatically granted to any person who completes and signs the Corporation Membership Application Blank and pays the required dues and initiation fees. Members must subscribe to your objective and uphold your ethics. In your letter dated ■■■■■, you state that anyone may join your membership and that you are not aware of the profession of every one of your members; you state that it is possible that some of your members may manage mutual funds for a living.

Section 501(c)(6) of the Code provides for the exemption from federal income tax of business leagues, chambers of commerce, real-estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations provides that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons.

Rev. Rul. 59-391, 1959-2 C.B. 151, holds that an organization whose membership consists of individuals, firms, associations, and corporations, each of whom represents a different trade, business, occupation, or profession, and created for the purpose of exchanging information on business prospects does not qualify for exemption under section 501(c)(6) of the

Code. Part of the rationale for the ruling is that the members have no common business interest other than a mutual desire to increase their individual sales.

Rev. Rul. 67-295, 1967-2 C.B. 197, holds that an organization of businessmen holding luncheon meetings may qualify for exemption under section 501(c)(6) of the Code. The key to the determination is that the luncheon meetings are devoted to discussions, reviews, and considerations of the various problems in a particular industry.

Rev. Rul. 70-641, 1970-2 C.B. 119, involves an organization comprised of individuals from various professions in the field of public health. The organization's activities, which consisted of lectures, seminars, and discussions, sought to provide an interdisciplinary forum for exchanging knowledge and information. The ruling concluded that the organization's activities promoted the members' common business interests by increasing the effectiveness of the interaction among the various professions and solving common business problems. The fact that the members represented various professions did not prevent the organization from qualifying for exemption under section 501(c)(6) of the Code because they shared a common business interest in the field of public health.

Rev. Rul. 73-411, 1973-2 C.B. 180, in discussing the exempt status of a shopping center merchants' association under section 501(c)(6) of the Code, describes in detail the history of section 501(c)(6) and the types of organizations described therein. In the case of a chamber of commerce or similar organization, the required common business interest is usually the general economic welfare of a community, and it has been accepted that an organization seeking exemption under section 501(c)(6) as a chamber of commerce must be one whose efforts are directed at promoting the common economic interests of all the commercial enterprises in a given trade community. Trade associations or business leagues under section 501(c)(6) are similar to chambers of commerce, except that they serve only the common business interests of the members of a single line of business or of the members of closely related lines of business within a single industry.

In American Kennel Club v. Hoey, 148 F.2d 920 (1945), the court held that an association of dog owners, most of whom were not in the business of raising and selling dogs, did not further a common business interest and thus was not exempt under section 501(c)(6) of the Code.

The term "business" is construed broadly for purposes of section 501(c)(6) of the Code and includes almost any enterprise or activity conducted for remuneration. Thus, the term is broad enough to encompass professions, as explained in Rev. Rul. 70-641, supra, as well as mercantile and trading businesses. It may also include the activities of organizations, such as consumer cooperatives, which engage in business on a cooperative basis. Where there is no "business" involved, however, as explained in American Kennel Club v. Hoey, supra, exemption under section 501(c)(6) is precluded.

The information you have submitted fails to establish that the individuals who attend your meetings are in a common line of business for purposes of section 501(c)(6) of the Code, which requires more than a finding that the individuals are engaged in a business. Unlike the organizations described in Rev. Ruls. 67-295 and 70-641, supra, your membership does not represent a specific industry nor various professions within a common business field. Your membership is not comprised of either an entire industry, nor all components of an industry within any particular trade community.

Your program is similar to that of the organization described in Rev. Rul. 59-391, supra, in that the sole purpose your members have to attend your meetings and receive your information is a mutual desire to increase their own individual portfolios. We recognize that there are distinctions between your operations and those of the organization described in Rev. Rul. 59-391, in that membership in your organization is not restricted and members are not accorded any special privileges. However, the basic holding in that revenue ruling is that the participants have no common business interest other than a mutual desire to increase sales and that this is not sufficient to establish a common line of business for the purposes of section 501(c)(6) of the Code. Your membership similarly is not made up of persons with a common business interest within the meaning of section 501(c)(6), but rather consists of persons desiring to increase their own personal wealth. We have concluded that the holding in Rev. Rul. 59-391 applies to you and therefore you do not qualify for exemption under section 501(c)(6).

In addition, although your membership is generally open to all interested parties, you lack the essential characteristic of a chamber of commerce in that your efforts are directed at individuals managing their own individual mutual fund investments rather than directed at promoting the common economic interests of all the commercial enterprises in your particular trade community (see the general discussion in Rev. Rul. 73-411, supra,

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days of the date of this letter. You also have a right to a conference in this office after your protest statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies of it will be forwarded to your key district office. Thereafter, any questions about your federal income tax status should be addressed to that office.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service  
Attn: [REDACTED]  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224

Sincerely yours,

(signed)

Chief, Exempt Organizations  
Technical Branch 4

cc: DD, Baltimore  
Attn: EO Group